

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**MARSHALL E. METCALF**

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**Case No.: 2:07-CR-191-TFM**

**UNOPPOSED MOTION TO CONTINUE TRIAL**

**COMES NOW** the Defendant, **Marshall E. Metcalf**, by counsel, and respectfully requests pursuant to 18 U.S.C. § 3161(h), that this Court continue this matter from the November 5, 2007 trial docket.

In support of this motion, the Defendant would show that such continuance will serve the ends of justice, in that failure to grant a continuance would deny counsel for the defendant or the attorney for the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(B)(iv).

In addition, Mr. Metcalf would show the following:

1. That additional time is necessary for the Court to rule on Defendant's Unopposed Motion for Placement on Pre-Judgment Probation (Doc. 10), which was filed on October 10, 2007.

2. As stated in that earlier motion, 18 U.S.C. § 3607 authorizes an expungible disposition to be entered for a person charged with simple possession of controlled substances who does not have any prior controlled substance offense convictions and who successfully completes up to one year of probation. Under 18 U.S.C. § 3607(a), the Court would impose up to one year probation "without entering a judgment of conviction," and, at any time before the expiration of the term of probation, if the defendant has not violated any probation conditions, the Court may then dismiss the proceedings and discharge the defendant from probation. The parties in this case agree that Mr. Metcalf appears to qualify for this disposition.

3. Government counsel does not oppose either this Motion or the Motion for Pre-Judgment Probation.

**WHEREFORE**, the Defendant prays that this Motion be granted and that the trial be continued from the November 5 trial term..

Respectfully submitted,

**s/Christine A. Freeman**  
**CHRISTINE A. FREEMAN**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:  
  
Kent Brunson, Esq., Assistant United States Attorney, One Court Square, Montgomery, AL 36104.

**s/Christine A. Freeman for Kevin Butler**  
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